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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 ANTHONY ALVAREZ,  
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15 VICTOR M. ALMAGER, Warden,  
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Petitioner,  
  
v.  
  
Respondent.

Civil No. 07-2062 H (JMA)

**ORDER DIRECTING CLERK TO:**

**(1) FILE PETITION IN CASE NO. 07cv2062 [doc. no. 1] AS NOTICE OF APPEAL AND REQUEST FOR CERTIFICATE OF APPEALABILITY IN CASE NO. 06cv2112; and**

**(2) CLOSE CASE NO. 07cv2062**

18 On July 17, 2007, Petitioner, a state prisoner proceeding pro se, filed a document entitled  
19 "Notice of Appeal with Request for Certificate of Appealability," together with a request to  
20 proceed in forma pauperis, in the Northern District of California. Petitioner wrote in a case  
21 number, 06cv2112 WQH, on the document. The matter was transferred to this Court on October  
22 26, 2007 and was filed a new petition pursuant to 28 U.S.C. § 2254 (West 2007). (See doc. no.  
23 1.)

24 Upon review of the document, it appears that Petitioner is not seeking to file a new habeas  
25 corpus petition, but rather seeks to file a Notice of Appeal and Request for Certificate of

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1 Appealability of the Order denying his petition in case no. 06cv2112 WQH (JMA). (*See* Order  
2 dated August 10, 2007 [doc. no 12].) According, the Clerk of Court **IS ORDERED TO:**

3 1. File the documents currently filed as a Petition for Writ of Habeas Corpus in case  
4 number 07cv2062 [doc. no. 1] and a motion to proceed in forma pauperis [doc. no. 2] as a Notice  
5 of Appeal and Request for Certificate of Appealability and a motion to proceed in forma paupers  
6 on appeal in case no. 06cv2112. The documents are to be filed nunc pro tunc to July 17, 2007;  
7 and

8 2. The Clerk of Court is directed to close case no. 07cv2062.

9 **IT IS SO ORDERED.**

10 DATED: November 6, 2007

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12 MARILYN L. HUFF, District Judge  
13 UNITED STATES DISTRICT COURT  
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